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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/629,136	07/29/2003	Michael J. Hubbard	GT-4751	6579
7590 10/08/2004			EXAMINER	
DAVID G. BU		HARAN, JOHN T		
OMNOVA SOLUTIONS Inc. 175 GHENT ROAD FAIRLAWN, OH 44333-3300			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. 10/629,136			
Examinor		Application No.	Applicant(s)
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of them may be waitible under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filled after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above, incention and solve is less than they (30) days, a reply within the stautory minimum of thiny (30) days will be considered timely. If the period for reply specified above, incention and they (30) days, a reply within the stautory minimum of thiny (30) days will be considered timely. If the period for reply specified above, incention and they (30) days, a reply within the stautory minimum of thiny (30) days will be considered timely. If the period for reply specified above, incention and the stautory minimum of thiny (30) days will be considered timely. If the period for reply specified above, incention and the stautory minimum of thiny (30) days will be considered timely. If the period for reply specified above, incention and the stautory minimum of thiny (30) days will be considered timely. If the period for reply specified time the period of the stautory minimum of thiny (30) days will be considered timely. If the period for reply specified time the period of the stautory minimum of thiny (30) days will be considered timely. If the period to reply specified time the period of the stautory minimum of thiny (30) days will be considered timely. If the period to reply specified timely (30) days will be considered timely ited. In the period time of the period time of the stautory file of the stautory file of the period timely (30) days will be considered timely. If the period timely file of the period timely period of the stautory file of the stautory file of the period timely file of the stautory file of the period timely file of the stautor	Office Astrono	10/629,136	HUBBARD ET AL.
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 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). 	a) ☐ All b) ☐ Some * c) ☐ None of:		a)-(d) or (f).
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).	_		
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Paper No(s)/Mail Date 6) Other:	Paper No(s)/Mail Date		,
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Application/Control Number: 10/629,136

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DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 19-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,615,892. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is obvious that the method of claim 19 must be performed by the apparatus of claim 1 of U.S. Patent 6,615,892. It is noted that U.S. Patent 6,615,892 is the parent case of the present application and double patenting is generally not applied to a parent case, however in this instance it is appropriate because if claim 19 of the present application and claim 1 of the patent had been originally presented at the time of filing the application a restriction requirement would not have been made. The apparatus of claim 1 of the patent necessarily performs the method of claim 19 of the application and the method of claim 19 of the application is necessarily performed by the apparatus of claim 1 of the patent.

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Allowable Subject Matter

Claims 19-26 would be allowable for the reasons noted in the previous office action if a terminal disclaimer is filed to overcome the obviousness type double patenting rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John T. Haran** whose telephone number is **(571) 272-1217**. The examiner can normally be reached on M-Th (8 - 5) and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John T. Haran Examiner

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